residence is a thing which can be changed in a day. A man is ordinarily resident in one place up till a particular day. He then cuts the connection he has with that place — in this case he left his wife; in another case he might have disposed of his house — and makes arrangements to have his home somewhere else. Where there are indications that the place to which he moves is the place which he intends to make his home for, at any rate, an indefinite period, as from that date he is ordinarily resident at that place. For those reasons I think the facts relied on by Counsel for the wife do not displace the conclusion to which the members of the Divisional Court came, that the husband was ordinarily resident in Scotland at the material date, and, therefore, applying *Forsyth v. Forsyth*,(4) the justices had no jurisdiction, and this appeal fails."

It was as a result of these decisions and the inconvenience caused and, indeed, the injustice suffered by deserted wives, that the Maintenance Orders Act, 1950 was enacted. This Act conferred jurisdiction on English Courts to make summary maintenance orders against a man residing in Scotland or Northern Ireland if the applicant in the proceedings resided in England and the parties last ordinarily resided together as man and wife in England.

In the instant case it is clear that the appellant was ordinarily resident in Singapore and that the summons was served upon him in Singapore. Applying the principles of law clearly enunciated by the cases to which I have referred I was satisfied that the Subordinate Courts of Penang had no jurisdiction to entertain this application and the fact that the appellant was present in person at the proceedings could not confer upon the Magistrates a jurisdiction which did not exist in the first instance. I would only make the comment here that if the appellant had been in the habit of visiting the Federation from time to time and if the summons had been served upon him within the Federation on one of these occasions, then it might well be that, following the opinion expressed by Bucknill, L.J. in *Forsyth v. Forsyth*,(4) his mere presence within the jurisdiction at the time the summons was served upon him would have been sufficient to confer jurisdiction upon the Courts here to entertain the summons. But there was no suggestion to that effect.

The proper procedure for the respondent to have followed in this matter was, of course, to have taken action under the Maintenance Orders (Facilities for Enforcement) Ordinance, 1949. Facilities for the reciprocal enforcement of such orders were extended to the Colony of Singapore by Legal Notification 316 dated the 28th May, 1952, with effect from the 17th November, 1949. This Legal Notification was cancelled but re-enacted in almost identical terms by Legal Notification 390 dated the 3rd July, 1952, to take effect from the 1st December, 1949. Under section 5(1) of that Ordinance the applicant should have obtained from the Magistrate's Court, Penang, after having given evidence before that Court, a provisional order for maintenance against her husband. A certified copy of that order, together with the accompanying depositions, would have been transmitted through the appropriate channel to the local Court of the Colony of Singapore having jurisdiction over the husband and the local Court, after having heard the evidence of the husband, would either have confirmed or rescinded the provisional order.

It was for these reasons that I allowed this appeal.

In conclusion I would express my indebtedness to both Counsel for their arguments and, in particular, to Mr. Eusoffe Abdoolcader, who appeared on behalf of the respondent, at my request, and without any fee or remuneration for the services he has given in assisting the Court as *amicus curiae*.

Appeal allowed.

Solicitors: *Lee & Lee; Ong Huck Lim & Co.*

RATNASAMY v. PUBLIC PROSECUTOR

[R.C.J. (Smith J.) August 13, 1958]

[Seremban — Criminal Appeal No. 9 of 1958]

Road Traffic — Accident — Failure to produce Insurance Policy — Motor Vehicles Third Party Risks Regulations, regs, 15(1), 3(2) and 8(1) — Defective Charge.

The appellant, being the driver of a motor vehicle which was involved in an accident, was charged with failing to produce his Insurance Policy to the nearest Police within the prescribed period of 5 days when requested to do so by a Police Officer in uniform, an offence under reg. 15(1) and punishable under reg. 3(2) of the Motor Vehicles Third Party Risks Regulations (GN. 452/46). He pleaded guilty and admitted the facts in the charge. The Magistrate convicted him, fined him $35 and ordered that he be disqualified from holding or obtaining a driving licence for a period of twelve months from the date of his conviction since such an order was mandatory under reg. 3(2) of the Motor Vehicles Third Party Risks Regulations.

Held: on revision that the charge was improperly framed since an offence under reg. 15(1) of the regulation is not punishable under reg. 3(2). Paragraph (2) of the reg. 3 provides punishments for offences under paragraph (1) of reg. 3 only. No specific punishment being provided for an offence against reg. 15, recourse must be had to section 8(1) of the Road Transport Proclamation which

provides various terms of imprisonment and fine but does not provide for disqualification of any kind.

In the circumstances, the charge was amended by substituting for the words "punishable under Regulations" the words "punishable under section 8(1) of the Road Transport Proclamation", and the order of disqualification was cancelled.

REVISION.

Smith J.: — The accused was charged in the following terms:—

"That you on 4.2.58 at about 5.45 p.m. at the roundabout at Railway Station, Seremban being the driver of motor vehicle No. N.9717 was involved in an accident did fail to produce your Insurance Policy to the nearest Police within the prescribed period of 5 days when requested to do so by a Police Officer in uniform to wit Sgt. 348 and you thereby committed an offence under reg. 15(1) and punishable under reg. 3(2) of the M/Vehicles Third Party Risks Regulations GN. 452/46."

He pleaded guilty and admitted the facts in the charge. The learned Magistrate convicted him, fined him $35 and ordered that he be disqualified for holding or obtaining a driving licence for a period of twelve months from the date of the conviction since such an order was mandatory under Regulation 3(2) of the Motor Vehicles Third Party Risks Regulations.

The first point which this revision raises is that the charge is improperly framed since an offence under Regulation 15(1) of the Regulations is not punishable under Regulation 3(2). Paragraph (2) of Regulation 3 provides punishments for offences under paragraph (1) of Regulation 3 only.

No specific punishment is provided for an offence against Regulation 15. Recourse must therefore be had to section 8(1) of the Road Transport Proclamation which provides various terms of imprisonment and fine but does not provide for disqualification of any kind.

I therefore amend the charge by substituting for the words "punishable under Regulation 3(2) of the Motor Vehicles Third Party Risks Regulations" the words "punishable under section 8(1) of the Road Transport Proclamation", and I further order that the order of disqualification be cancelled.

Order accordingly.

ANTHONY v. ANTHONY (nee PRAGASAM)

[O.C.J. (Sutherland J.) June 10, 1958]

[K.L. — Divorce Suit No. 2 of 1958]

Husband and wife — Restitution of conjugal rights — Petition for — Jurisdiction — Petitioner ordinarily resident in Singapore but works in the Federation — Domicile in Taiping — Divorce Ordinance, 1952, s.4(3)(b) — R.S.C., 1957, O.25.

In this case the petitioner presented his petition to the Court on February 25, 1956 and stated in that petition that he was formerly residing in Gemas in the Federation of Malaya but at the time of filing the petition he was staying in Singapore, since July 1955 after his transfer on duty as locomotive engine driver in the Malayan Railways. After their marriage petitioner lived and cohabited with the respondent in the Federation and in Singapore. The respondent withdrew from cohabitation on August 2, 1955 and left petitioner's house in Singapore.

The respondent in her answer, *inter alia*, pleaded that the Court had no jurisdiction to entertain the petition and that it should be dismissed. At the outset of the hearing Counsel for the respondent referred to Order 25 of the R.S.C., 1957 and raised the point of jurisdiction pleaded in the answer.

Held: as the petitioner was ordinarily resident in Singapore, the Court had no jurisdiction to entertain the petition and therefore the petition must be dismissed.

Cases referred to:—

(1) *Flowers v. Flowers* (1910), I.L.R. 22 All. 203.

(2) *Stransky v. Stransky*, (1954) P. 429.

(3) *Macrae v. Macrae*, (1949) P. 397.

(4) *Willis v. Willis*, (1941) M.L.J. 169.

DIVORCE SUIT.

K. L. Devaser for the petitioner.

M. W. Maxwell for the respondent.

Cur. Adv. Vult.

Sutherland J.: — This was a petition for restitution of conjugal rights. Petitioner described himself as J. Anthony, of 46, Bridport Avenue, Serangoon Garden Estate, Singapore 19 (at present). The petition was dated the 26th January, 1956. It commenced:

"The petition of J. Anthony residing at present at 46, Bridport Avenue, Serangoon Garden Estate, Singapore."

It stated that petitioner was formerly residing in Gemas in the Federation of Malaya and is at present in Singapore since July, 1955 after his transfer on duty as a locomotive engine driver in the Malayan Railways. After the marriage petitioner lived and cohabited with respondent in the Federation of Malaya and at Singapore. Respondent on the 2nd of August, 1955 withdrew from cohabitation and left petitioner's house at Singapore. Petitioner declared that the petition is true.

This petition was presented to the Court on 25.2.56, and after ascertainment that there was no pending petition between the same parties in other Registries was registered on the 5th of